

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DOMINICK J. PASCULLO and RAYMOND  
GONZALES, On Behalf of Themselves And All  
Others Similarly Situated,

Plaintiffs,

vs.

MERRILL LYNCH & CO., INC., MERRILL  
LYNCH & CO., INC. PLAN INVESTMENT  
COMMITTEE, MERRILL LYNCH & CO.,  
INC. PLAN ADMINISTRATIVE  
COMMITTEE, MERRILL LYNCH & CO.,  
INC. MANAGEMENT DEVELOPMENT AND  
COMPENSATION COMMITTEE, LOUIS  
DIMARIA, E. STANLEY O'NEAL, ALBERTO  
CRIBIORE, ARMANDO M. CODINA, VIRGIS  
W. COLBERT, JOHN D. FINNEGAN,  
AULANA L. PETERS and JOHN DOES 1-10,

Defendants.

Civil Action: 1:08-cv-01116 (UA)

[Additional Captions on Next Page]

**THE *PASCULLO* PLAINTIFFS' MEMORANDUM IN SUPPORT OF THE *ESPOSITO*  
PLAINTIFFS' MOTION TO CONSOLIDATE ERISA CASES, APPOINT INTERIM  
LEAD PLAINTIFFS AND INTERIM CO-LEAD COUNSEL, FOR ENTRY OF  
PRETRIAL ORDER NO. 1, AND IN OPPOSITION TO PLAINTIFF GIDARO'S  
MOTION FOR CONSOLIDATION AND APPOINTMENT OF INTERIM COUNSEL  
FOR THE CLASS**

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ELIZABETH ESTEY, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10268 (DC)**

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MARY GIDARO, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10273 (LBS)**

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TARA MOORE, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10398 (DC)**

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GREGORY YASHGUR, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10569 (UA)**

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CHRISTINE DONLON, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10661 (UA)**

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CARL ESPOSITO, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10687 (JGK)**

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SEAN SHAUGHNESSEY, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-10710 (UA)**

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BARBARA BOLAND, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E.  
STANLEY O'NEAL, CAROL T. CHRIST,  
ARMANDO M. CODINA, VIRGIS W.  
COLBERT, JILL K. CONWAY, ALBERTO  
CRIBIORE, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, DAVID K.  
NEWBIGGING, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, LOUIS DIMARIA,  
PETER STINGI and JOHN and JANE DOES  
1-20,

Defendants.

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**Civil Action: 07-CV-11054 (MGC)**

On February 4, 2008, Plaintiffs Dominick J. Pascullo and Raymond Gonzales (“*Pascullo Plaintiffs*”), through their counsel, Gainey & McKenna, LLP (“GM”), filed a complaint against Merrill Lynch & Co., Inc., and certain of its directors, officers, and employees, for violations of the Employee Retirement Income Security Act (“ERISA”). See Pascullo and Gonzalez v. Merrill Lynch & Co., et al., No. 08-cv-01116 (UA).

The *Pascullo* Plaintiffs have reviewed the competing motions for appointment of interim class counsel and the papers in support thereof. The *Pascullo* Plaintiffs hereby join in the motion filed by plaintiffs Carl Esposito, Barbara Boland and Anna Molin (collectively, the “*Esposito Plaintiffs*”) pursuant to Federal Rule of Civil Procedure 23(g), and support the appointment of the Esposito Plaintiffs’ counsel, Keller Rohrbach L.L.P. (“KR”) and Cohen, Milstein, Hausfeld & Toll, P.L.L.C. (“CMHT”), as Co-Lead Counsel in this litigation.

Dated: February 7, 2008

Respectfully submitted

**GAINEY & McKENNA**

S/  
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*Attorneys for Plaintiffs Dominick J.  
Pascullo and Raymond Gonzalez*